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SEX IN CRIME.

THOSE who view superficially the psychical and physical differences existing between man and woman, and those who tenaciously hold the theory of separate creation, are the most ardent supporters of a belief, which has become quite general, that woman was created from a finer clay, and is inherently more moral, more virtuous, more æsthetic than man. Accordingly she is held to be less criminal; and, apparently, statistics sustain this view. Is woman's apparently lesser degree of criminality attributable to this congenital moral superiority, or is it due to sexual and social considerations and conditions over which she has had no control, such as her having been selected as the anabolic organism, having had the burden of parturition placed upon her, and having been the favored sex in the progress of civilization? Have not these facts combined to render her life one of restricted activity and slavery rather than one of freedom of activity and independence? and are not the latter necessary elements for an extended and varied commission of crime? One prominent class of anthropologists considers woman as midway between child and man in her development.

To demonstrate the hypothesis that woman's moral superiority, if she possess it, is not due to congenital causes, involves the necessity of investigating her evolution from both biologic and sociologic stand-points. Preliminary to this inquiry, however, cognizance should be taken of the inaccuracy in ascertaining the criminal class. A criminal becomes such only by legal process,—that is, when he has been arraigned in a court of justice and convicted of some violation of the law. In a comparative study of sex in crime, it becomes necessary to use a mathematical basis, and only prison statistics are available for such a basis, and those who sustain the theory of the lesser criminality of women use them unhesitatingly. This use is manifestly partial to woman for many reasons, among which the following may be mentioned: Women are

less rigorously prosecuted; judgments against them, when indicted, are more difficult to obtain; and their punishments, when convicted, are less severe.* This is due to the sympathy and consideration which men give women, and those connected with the enactment and enforcement of laws are almost exclusively men. This prejudice in favor of women is well illustrated by the recent attempt in the Georgia Legislature to pass a bill providing that no woman shall be executed for the crime of murder except when the jury stipulates for such punishment. The passage of this bill was intended for the benefit of a woman already under sentence of death for murder. The fact of electrocution existing in New York undoubtedly influenced the jury in their verdict in the Fleming murder trial and in others. Prostitution is the most natural form of crime in women,† and indicates a low morality, lower than that of the crimes which men commit as a means of securing a livelihood,—larceny, burglary, etc. Convictions are most disproportionate to the prevalence of this crime, and, when secured, are usually for a short period. Woman is frequently the instigator to crime, man being the committer, but, unless the former can be proved to have been an accessory before or after the fact, she is rarely indicted and convicted, and when she is, her sentence is for so short a time that she is at liberty and instigating others to fresh crimes, while her male companion in crime remains incarcerated, thus year after year increasing prison statistics. If the statistics of the United States are used, of a country where, it may be argued, there is great independence of women, but no corresponding increase in crime, three additional factors must be considered,—namely, that the male population exceeds the female by nearly two millions; that foreigners constitute a large proportion of the criminal class,‡ and that immigrants consist mostly of men and include many who have been malefactors in their native country; that negroes furnish an abnormally large percentage of criminals in proportion to

* This is substantiated by a study of municipal police court records.

† “Criminal Sociology,” E. Ferri.

‡ United States Census Report, 1890.

their population, their crimes being generally those of sexual passion which woman is incapable of committing.* Were the determination of the criminal and non-criminal classes less legal and more sociologic; less based upon the crime and more upon the criminal, and upon the amount and nature of crime rather than upon the number of convictions, which are less than one-third of the actual number of crimes committed, the proportionate rate of the crime in the two sexes would be much more uniform. There are numerous conditions and acts indicating a low morality and a criminal nature, acts which are injurious to the community and state, of which the law takes no cognizance, but which would be indispensable factors in an accurate study of comparative crime in the sexes. This inaccurate determination of the criminal class, combined with the following biologic and sociologic considerations, will to a great extent eliminate the variance in the statistical rate of crime for the two sexes.

Before considering these biologic and sociologic conditions, the general causes of crime are important. There are two current theories,†—the first being that heredity is the great factor, that the tendency is inherent, and that the individual acts independently of his environment; the second, that the environment, social institutions, and the character of the law and government determine the nature and extent of crime and who shall commit it. If the former theory is accepted, the tendency would be for both sexes to inherit equally, and crime would be neither dependent upon nor peculiar to sex. If the latter view is accepted, it will be evident that the environment does not operate equally upon the two sexes, as both are not subjected in a similar manner and to the same degree to sociologic conditions and influences. The Italian school of criminal sociologists ‡ supports the former view and the French school the latter; § but the tendency is to consider

* United States Census Report, 1890.

† Consult reports of the last two meetings of the Criminal Anthropologic Congress held in 1895, and in 1897.

‡ Consult "Criminal Sociology," Ferri; "Female Offender," Lombroso.

§ Consult "Reports of School of Anthropology," Paris.

crime as the product of both inherent and sociologic causes, both sexes equally inheriting the *tendency*, but the *expression*, *form*, and *extent* being much modified by reason of its remaining latent in woman, while in man it is developed by his more varied nature and more complex external relations.

The greater amount of criminality in man is remotely due to his more katabolic nature.* Previous to the differentiation of life into the higher organisms, many of the lower species were bisexual, parturition not being confined to either sex. Higher in the vertebrate series by a process of variation in which the male organism participated to a greater extent, and, through the necessity for economy of labor, as the environment became more complicated, the sexes became more specialized. The male was carried farther away from the anabolic existence, to which the female is more closely allied, and in him was developed a stronger physique, greater passion, and larger brain capacity. These became modifying influences upon environment, and were strengthened by heredity. When the stage of human existence was reached in the process of evolution,† woman, by reason of her tendency to conserve rather than to expend energy, did not pass along the rapid and varied lines of man's development.‡ She thus developed an inferior physique and less activity and mental power. This accumulated difference between the two sexes has been accentuated by the added influence of environment. In the tribes where woman is equally strong and intelligent, it is seen that mere sex is no barrier to her progress. This is illustrated by the matriarchal system of government which has prevailed in many countries. In Nicaragua the husbands are the slaves and perform the labor while the wives attend to matters of war and government. The women of the Dyaks of South-

* Consult "The Evolution of Sex," Geddes & Thomson.

† Consult "Psychic Factors in Civilization," Ward; "Origin of Species," "Descent of Man," Darwin; "Metabolism of Sexes," Thomas, in *American Journal of Sociology*, July, 1897.

‡ "The Chances of Death," by Carl Pearson, appeared before the writer too late for reference; but the statement therein made that woman is more variable than man is entitled to much consideration.

east Borneo lead the men in war and exercise the authority of chiefs over the tribes. Among the Naiars on the Malabar coast of India the husband is a mere incident to the social organization, and woman's power is autocratic and absolute. It is well known that the female warriors among the Dahomeyans were much more dangerous than the men. These illustrations are given to support the theory that there is nothing essentially repugnant in the nature of woman to participating with man in all his varied life. If such repugnance exists, it is the result of the environment and lesser physical strength of women, and is due to the effects of artificial civilization. Woman's capability for good or evil depends not so much upon mere sex as upon the conditions determining the characteristics of sex and their development. That habit and environment have a great determining effect upon psychical traits and physical development is illustrated by the class of mammals given by Darwin,* where parturition remained the function of the females, but the male assumed entire charge of the young after birth. In this instance the female acquired all the pugnacity and prehensile organs of the male, while he remained docile and without these organs. The females also strive for the favor of the males.

When through the long process of variation the stage of human existence was reached and there dawned a moral sense, the two sexes must have been upon an equality. Because woman was less exposed to the influences of environment, was more inert, and possessed a less developed mind, she did not necessarily possess a superior moral conception. There must be the *opportunity* as well as the *inclination* to be immoral, and woman in the then existing civilization, slave that she was, was incapable of creating this opportunity. Notwithstanding that man committed the crimes which his greater strength and opportunity permitted, woman's criminal nature was shown, not by her compelled obedience alone, but by her sanction of these crimes and by her commission of such crimes as lay within her power. Infanticide prevailed to an

* Darwin, "Descent of Man."

alarming degree and was largely committed by women.* The prevalence of this crime always argues a low moral standard among women. Individually women may rise above the prevailing moral standard, but collectively they assist in establishing that standard.

Among the distinctively biologic considerations, the following may be briefly considered :

Women are physically incapable of committing many of the crimes with which men are charged, owing to inferior physical strength, and they resort to subtle rather than to violent methods. In homicide this is shown by the use of poisons by women, rather than the resort to physical means. In burglaries, assaults, and other crimes requiring much strength, women are instigators rather than committers. Statistics substantiate the belief that physical strength is an important element, for in Italy, where the percentage of crime against the person is so large, women contribute only nine per cent. of the total, while in England, where the crimes are largely against property, their proportion rises to eighteen per cent.† Where woman has equalled man in her capacity for conceiving and strength for executing crime, and where there has been a deficiency in the maternal instinct, she has even exceeded him in the violence and cruelty of its commission.

Woman's incentives to many crimes differ from those of man, being due to emotional causes, love, hate, revenge, vanity, etc., rather than to those arising from economic, social, and political conditions, and this because woman's emotional nature has been developed to a greater extent. The former would produce a greater number of petty crimes and acts injurious to an individual rather than to the community directly. The *gravity* of an offence does not necessarily argue a lower moral standard, for the *nature* and *quality* of the act are equally important.

By reason of this inferior physique and nervous system,

* In this connection, consult "Essay on Population," Malthus; "Woman's Share in Primitive Culture," Mason.

† "Crime and its Causes," Morrison.

criminal tendencies in women often culminate in neuroses,* developing into hysteria, insanity, immorality, epilepsy, and sexual anomalies. They do not develop into crime because the psychic centres in women are less active, and the irritation consequent upon degenerative processes in her is neither so intense nor so constant. This is illustrated by the fact that while excess of passion in man, not directed into proper channels, leads to assaults and sexual perversion, in woman its existence more frequently culminates in mental degeneracy or physical disease.

The criminal age in woman is less than in man, depending upon functions peculiar to women. This operates particularly in such crimes as abortion, infanticide, etc., and is more remotely related to crimes of passion and prostitution, women becoming sexually indifferent at an earlier age than men. Women show a greater persistency in crime when once they have become criminal, this being partially due to the greater social ostracism of a degraded woman, but also to her lesser resistance to evil, when not protected by the safeguards man has thrown about her. Love in women is a frequent cause of crime, and operates to produce the same crimes as passion in men, but, as it leads her to instigate men to crime rather than to commit it herself, it is not so much in evidence. This was illustrated in the recent Thorn-Nack trial in New York city.

The crimes of women are more insidious. Prostitution, infanticide, abortion, and allied crimes exist to an alarming degree among women, and, from the view of public policy alone, are among the gravest, as they strike at the very root of society by decreasing population. The seriousness of the crime of abortion is twofold,—it lowers the moral standard of the women of a nation, and it destroys the physical health of the mother, who, when a child is born, transmits her own deficient physical condition. The fact that abortion is so prevalent among married women is of the gravest importance,† as it

* Consult "Criminal Sociology," Ferri.

† This is based upon facts gleaned by original investigation among reputable and trustworthy physicians and alienists.

shows a decrease in the maternal sentiment which has preserved woman from much crime and degradation, and which is distinctly recognized as the crowning honor of womanhood.

In juvenile crimes, where the sociologic conditions do not operate so unfavorably upon the male sex, and where the maternal instincts and woman's protected position do not influence the rate, the statistical contrast is much lessened, the males incarcerated in juvenile reformatories being 11,535, as against 3311 females, there being 142,630 more males than females in the United States, between the ages of five and nineteen years. Among adult prisoners the rate is 75,924 males, as against 6405 females.*

Criminal women do not possess the physical anomalies characteristic of criminal men, and for this reason women are said to be occasional, rather than born, criminals. The Italian school of criminal sociology very strenuously asserts that there is a correlation between mental and physical conditions and processes, and that criminals are thus characterized by some corresponding physical anomalies.† Granting that this is true (and it is by no means conclusively proven), does the fact necessarily lead to the conclusion that there is less criminality among women, or that they do not inherit criminal tendencies? It must be remembered that many of the crimes in which women predominate and excel, as swindling, shoplifting, prostitution, etc., require a pleasing personal appearance, and women thus become more skilful in concealing physical defects. Prostitutes, by the nature of their crime, leave few offspring to inherit their defects and criminal tendencies. That criminal tendencies are inherited equally by the two sexes has been ably demonstrated in Dugdale's study of the Jukes family. According to the existing knowledge of heredity,‡ latent criminal tendencies in the one generation

* United States Census Report, 1890.

† "Uomo Delinquente," Lombroso.

‡ In this connection, consult Strahan on "Marriage and Disease;" Galton on "Hereditary Genius;" Ribot on "Heredity;" Weismann on "Essays on Heredity."

may become active agents in a more favorable environment in the succeeding ones.

Sociologic and biologic conditions are closely related, but what may be viewed as more distinctly sociologic are the following:

There are many crimes which the law, by reason of its unequal political privileges, has rendered woman incapable of committing. Illustrative of these would be, offences against the government, including violations of the election and postal laws; of the revenue laws; against public health, as adulteration of foods. Women also commit less crimes against public policy, by reason of their inferior position in the business world. Wherever they are entering vocations hitherto open only to men, crime is increasing among them. Women have not entered the industrial world to the same extent as men and public life in all its phases is less open to them. Where they have entered the field, their positions are subordinate ones, and so give only limited opportunities. In Greece, where the women live an almost entirely domestic life, there is a minimum amount of crime among them, whereas in Scotland, where they are allowed a greater industrial scope, the percentage rises to thirty-seven. The want of adaptation to the economic order arouses criminal instincts in the sex that comes most in contact with it, and, as woman is equally unadapted to this order, she becomes more criminal as she comes into more direct contact.

The greater temptations and opportunities given man are important factors. Illustrative of this are the responsible positions of trust and position in financial administration. Special opportunities develop special classes of criminals: thus banking furnishes the opportunity for embezzlement, absconding, defrauding, and forgery. This great field of finance holds but few women in positions of trust. There are places, as club-houses, saloons, anarchistic societies, etc., which are favorable to the contagion of crime. These places are not generally frequented by women, not necessarily because they do not choose to, but by reason of habit and custom which are the result of the restrictions placed upon their freedom by man.

Alcoholic, cocaine, and allied habits are causes of crime, and man is more addicted to these than woman. Causes of this greater addiction include a consideration of his more social nature and greater prominence in the struggle for existence, these leading to habits and reactions, the latter culminating in pain which he seeks to escape. Men have more variable natures, and their need of diversion thus becomes greater. Women have less sensitive organisms (as experimental psychology has demonstrated, notwithstanding the prevailing contrary opinion), and they endure pain and privation better than men. It should be noted, however, that the increasing use of drugs among women is extensive, and particularly so among those exposed to an unfavorable environment or those seeking an anodyne for physical or mental suffering. There are conditions attending military life, or any organization composed exclusively of one sex, which tend to produce crime.

The combative attitude required in the struggle for existence is destructive to the higher instincts with which we credit women. Refinement, culture, and morality are cultivated best when the struggle for existence is not so great. Ambition and pride lead many men into crime, whereas vanity is the predisposing factor in women, as is seen from the large number of servants who are prosecuted for thefts, traceable to this cause. That women endure want longer before resorting to crime is not due necessarily to a superior morality, but to a more anabolic organism, which endures rather than exert itself into activity. This assertion, together with that of woman's lower sensitiveness, finds support in the manner in which women submit to surgical operations. They are more indifferent to the pain, rather than possessed of superior self-control or will-power.

In connection with this struggle for existence it must also be remembered that not a small proportion of women in the business world have excellent homes, and there is not the temptation to exceed the limits of salary which comes to a large number of men. Suicide, which is allied to criminality,

is shown to be more prevalent among men, and Morselli* ascribes a large proportion of suicides to the sharpness of the struggle for existence.

The attitude of protection which man has assumed towards woman, and which is the refinement of the feeling which held her successively as beast of burden, slave, servant, subject, is incalculable in its influence upon her moral nature and its development, and it must not be forgotten that but a few decades have elapsed since in criminal law a woman was considered a part of her husband and could not be tried separately for crime. What opportunity here for the exercise of criminal tendencies in woman!

The power of association is greater among men, primarily because they banded together, first in defence of family and later of the tribe, community, and state. Rarely have women's organizations existed for the perpetuation of crime, owing to a weak power of association, infidelity to members of their own sex, and to a deficiency of capable organizers and leaders. Among such organizations is one known to have existed at the time of the epidemic of slow poisoning in France and Italy, in the sixteenth century. For relentlessness, cruelty, and extent the work of this association has seldom been equalled, although the participation in and rapacity for blood-shedding shown by the women of the French Revolution are somewhat analogous. These associations are great influences in increasing crime and in shielding criminals. Where women have developed this spirit of association, as in houses of prostitution, crime has become more varied and extensive and has been more advantageously conducted.

Man's broader education has given him greater capability for devising forms of crime and has made him more susceptible to criminal contagion. This is seen in the avidity with which men read newspapers, with the consequent imitation of crimes by the morbidly inclined, who read the published details of unusual or atrocious crimes. Woman's imitation often takes the form of emulation. The morbid, sentimental, maud-

* "Suicide," by Morselli.

lin sympathy which women so often express in public and by direct personal acts, in regard to atrocious criminals, can be explained upon no other ground than latent, unconscious criminal tendencies expressing themselves in emulation rather than in imitation. By what freak of distorted imagination did the French populace, mostly women, "go wild" at the burning of Madame de Brinvilliers, and retain every atom of ashes, as those of a saint, to prevent evil coming to them? And this notwithstanding she had poisoned two members of her family and was attempting the lives of others, and all for a financial consideration! The scene is not surpassed, but is nearly paralleled by the flowers, visits, notes, and other expressions to which women resort in regard to the great criminals of to-day.

From the fact that crime exists to a greater extent among unmarried women arises the necessity for a brief consideration of the causes. These may be found in the fact (1) That maternity operates to a greater extent than paternity in preventing crime. Maternity is more developed because the relation of the mother to the child is more intimate, and because the greater part of her life has been given to it. Maternity should not be confounded with love, which is often a cause of crime. Maternity sometimes operates to the extent of determining the nature of or mitigating the crime, but is seldom or never the predisposing cause. (2) The sexual indifference of women, particularly mothers, where passion is held in abeyance by the demands and drains of motherhood, operates to prevent crime. (3) The greater predominance of religion among women, owing to their more superstitious natures and unwillingness to yield faith to reason. It may be said that woman's religion rather than her superior morality restrains her from committing crime. In her religion there is generally a large element of fear of incurring divine displeasure, and this operates as a bar. Religion has been a great source of epidemic crime, but it has usually been fanatically prosecuted in behalf of some fixed belief. (4) Married women are less subjected to the influences incident to a struggle for subsistence, their energy being largely given to domestic and social duties.